

UNITED STATES DISTRICT COURT
DISTRICT OF SOUTH CAROLINA

Muhammad Al-Mujahidin,)	Civil Action No. 9-13-22-MGL
)	
Plaintiff,)	
)	
v.)	
)	
James Harris, Sharonda Sutton, Percy)	<u>OPINION AND ORDER</u>
Jones, Warden Stevenson, Leroy)	
Cartledge, Sgt. Esterline, Ofc. Beckett <i>et</i>)	
<i>al.</i> , in their individual capacities, Officer)	
Joe Fant,)	
)	
Defendants.)	

Plaintiff Muhammad AL-Mujahidin ("Plaintiff"), proceeding *pro se*, filed this action pursuant to 42 U.S.C. § 1983 alleging violations of his constitutional rights. (ECF No. 1). On September 24, 2013, Defendant James Harris ("Harris") filed a Motion to Dismiss due to Plaintiff's failure to perfect service. (ECF No. 65).

In accordance with 28 U.S.C. § 636(b) and Local Civil Rule 73.02(B), D.S.C., this matter was referred to United States Magistrate Judge Bristow Marchant for pre-trial handling and a Report and Recommendation ("Report"). On September 24, 2013, Magistrate Judge Marchant issued a Supplemental Report and Recommendation recommending that Harris' Motion to Dismiss be denied (ECF No. 65). The parties were advised of their right to file objections to the Report and Recommendation. (ECF No. 67 at 4). Neither party filed objections and the time for doing so has expired.

The Magistrate Judge makes only a recommendation to this Court. The recommendation has no presumptive weight, and the responsibility to make a final determination remains with the Court. See *Mathews v. Weber*, 423 U.S. 261 (1976). The

Court is charged with making a *de novo* determination of any portion of the Report and Recommendation of the Magistrate Judge to which a specific objection is made. The Court may accept, reject, or modify, in whole or in part, the recommendation made by the Magistrate Judge or recommit the matter to the Magistrate Judge with instructions. See 28 U.S.C. § 636(b). The Court reviews the Report and Recommendation only for clear error in the absence of an objection. See *Diamond v. Colonial Life & Accident Ins. Co.*, 416 F.3d 310, 315 (4th Cir. 2005) (stating that “in the absence of a timely filed objection, a district court need not conduct a *de novo* review, but instead must only satisfy itself that there is no clear error on the face of the record in order to accept the recommendation.”) (citation omitted).

After reviewing the motion, the record, and the Report and Recommendation of the Magistrate Judge, the Court finds no clear error. Accordingly, the Court adopts and incorporates the Report and Recommendation (ECF No. 67) by reference into this order. It is therefore ORDERED that Harris’ Motion to Dismiss (ECF No. 65) is denied.

IT IS SO ORDERED.

/s/ Mary G. Lewis
United States District Judge

Spartanburg, South Carolina
October 17, 2013